

THE ROLE OF THE UNIVERSITIES IN CONTINUING PROFESSIONAL EDUCATION

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It is a distinct privilege to have the opportunity to participate in this Centennial program, but I confess that in accepting the invitation of Professor Pollack, the Chairman of the College of Law Centennial Committee, to speak on "The Role of the Universities in Continuing Professional Education," I did so with considerable reluctance. In these turbulent days when universities are struggling with mounting deficits and new and difficult challenges to traditional methods of education, it may be too much to expect them to give serious attention to the question of their assuming greater burdens than in the past in the field of continuing professional education. Yet on reflection I accepted the invitation, comforted by the thought that the question is of long-run importance and the planners of this program deliberately asked for its discussion.

Logically, it seems reasonable to say that institutions of formal education should have a substantial measure of responsibility for continuing the education of the students whom they educate to pursue the professions. However, that this is not so self-evident is demonstrated by two case histories. Let me start with my profession, the law.

Chronologically, continuing legal education, compared to academic institutions such as this one, is still enjoying its youth. There is some question whether it was born in academia or at the bar. New York University School of Law has laid claim to have started a continuing legal education program for lawyers in 1891 to supplement its course of study for the LL.B.¹ There is a record of post-admission legal education lectures at The Association of the Bar of the City of New York more than fifty years ago. There were occasional efforts under bar association auspices at times elsewhere in isolated parts of the country.² A New York lawyer, Harold Seligson, foresaw in the thirties the significance of this branch of professional education and started in New York City a program that resulted in a private non-profit institution known as the Practising Law Institute, one of the leaders today in post-admission legal education. Continuing legal

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¹ JOINT COMMITTEE ON CONTINUING LEGAL EDUCATION OF THE AMERICAN LAW INSTITUTE AND THE AMERICAN BAR ASSOCIATION, CONTINUING LEGAL EDUCATION FOR PROFESSIONAL COMPETENCE AND RESPONSIBILITY, THE REPORT ON THE ARDEN HOUSE CONFERENCE, DECEMBER 16th to 19th, 1958, at 220 (1959) [hereinafter cited as ARDEN HOUSE I REPORT].

² THE JOINT COMMITTEE ON CONTINUING LEGAL EDUCATION OF THE AMERICAN LAW INSTITUTE AND THE AMERICAN BAR ASSOCIATION, A STATEMENT OF ITS ORIGINS, HISTORY, DEVELOPMENT AND ACCOMPLISHMENTS (The American Law Institute, Philadelphia, 1966) (Unpublished report in library of The American Law Institute).

education gained substantial momentum at the end of World War II when the profession, working primarily through the organized bar, foresaw the need for refresher courses for lawyers who would be returning to civilian life after having been in the service of their country. A substantial program for this purpose was mounted by the American Bar Association working with the Practising Law Institute. The successes and the frustrations of this effort indicated to the leaders of the bar the need for further intensive development on a national scale of a continuing education program for the profession. A committee of the American Bar Association's Section of Legal Education and Admissions to the Bar, working with a Committee of the Association of American Law Schools and the Executive Council of the Junior Bar Conference, studied the matter. It reported that continuing legal education was a prime need of the profession and recommended that the Association request The American Law Institute, with the cooperation of the American Bar Association, to assume the leadership in developing a national program of continuing legal education. The Institute agreed to undertake such a program under the aegis of a committee of leaders of the bar drawn from the Institute and the Association. The Committee is known today as the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association. Its first Chairman was the late Harrison Tweed of New York City, my predecessor in the Presidency of the Institute and the Chairmanship of the Joint Committee.³

An initial objective of the Joint Committee was to stimulate the development of programs of continuing legal education at the local level throughout the country. This objective was formulated in the belief that local participation and organization were needed to establish viable programs to which members of the bar would respond. It was appropriate to the legal system of the United States under which the law of each state plays a dominant role within its borders. The Joint Committee's effort got under way in 1947.

Some 10 years later, the first of a series of national conferences on continuing education of the bar to evaluate accomplishments and to chart future courses was held at Arden House in Harriman, New York. Reports to the conference showed that post-admission legal education in 1958 depended in the main on the sponsorship of state and local bar associations which, pursuant to the Joint Committee's original plan, for the most part had originated and administered its programs. There was some university participation. In California, a program had developed at the instance of the State Bar of California which was administered by the University of California Extension as an extension of the University of California School

³ See history of the formation of the ALI-ABA Joint Committee in the 1966 ANNUAL REPORT OF THE AMERICAN LAW INSTITUTE 45 et seq. (Philadelphia).

of Law in Berkeley but which was controlled by the California Bar. A comparable form of organization had evolved in Wisconsin. About this time Harvard Law School initiated a two-week summer program for lawyers which since then has been conducted every three years. New York University School of Law had a graduate program for lawyers seeking to develop specialties.⁴

At this first Arden House Conference, the question was posed to the conferees of a role, perhaps a major role, in post-admission legal education being assigned to the law schools. Speaking to this proposition in one of the provocative addresses was the then Dean of the Harvard Law School, now the Solicitor General of the United States, Erwin N. Griswold. In substance, Dean Griswold's thesis was that post-admission legal education was not a task to which the law schools could or should commit themselves. Law schools, he said, had limited manpower and limited funds and these should be devoted basically and essentially to the teaching of students to be lawyers, to scholarly legal research, and to improving the law. To allocate part of these resources to post-admission legal education would dilute the law school's primary educational objectives, if not frustrate them. Post-admission legal education was a task for others, such as the bar association or university extension, to assume and to administer, at a well-financed level and through a cadre of professional administrators.⁵ The final statement adopted at the Arden House Conference reflected his views,⁶ though it added:

Law schools have an important contribution to make to the continuing education of the bar. This contribution should be made without either impairing the independence of the schools or diverting them from their primary responsibility for the education of law students.

In the following years the impact of Arden House I and its final statement was substantial and in the direction that Dean Griswold urged. A majority of the states of the United States, working in the main through their bar associations, instituted, organized, and established professional administrations of continuing legal education to conduct their programs. Thus, at the time of the second Arden House Conference in 1963 there were some twenty-five state administrators of continuing legal education.⁷

A questionnaire prepared for the second Conference elicited information that is particularly meaningful for our discussion. Of twenty-four

⁴ See ARDEN HOUSE I REPORT, 205-244 (Appendix F).

⁵ Dean Griswold's address appears in ARDEN HOUSE I REPORT, 134-152 (Appendix D).

⁶ ARDEN HOUSE I REPORT, xv-xvi.

⁷ JOINT COMMITTEE ON CONTINUING LEGAL EDUCATION OF THE AMERICAN LAW INSTITUTE AND THE AMERICAN BAR ASSOCIATION, ARDEN HOUSE II: TOWARD EXCELLENCE IN CONTINUING LEGAL EDUCATION, THE REPORT ON THE SECOND NATIONAL CONFERENCE ON THE CONTINUING EDUCATION OF THE BAR DECEMBER 14th to 17th, 1963, at xxii (1964) [hereinafter cited as ARDEN HOUSE II REPORT].

responding organizations eleven had some affiliation with a university. Of these only one state had an administration initiated and administered by its law schools. Some five were based in university extension divisions. The balance of the eleven were joint enterprises of bar associations and law schools. In the remaining thirteen organizations, bar associations were the dominant forces. It would seem that university affiliation, where it did exist in 1963, was more for purposes of administration than for educational direction. Significantly, but with some exceptions, most of the programs were administered by personnel who were committed to continuing legal education only on a part-time basis and who were not academics.⁸ The final statement of Arden House II reaffirmed that the primary obligation to make continuing legal education available to the profession was that of the organized bar and that "law schools have an important contribution to make." It defined their obligation to be "to assist in continuing legal education activities" and added that "universities are urged to share in this responsibility."⁹

Some in the profession, including members of the ALI-ABA Joint Committee, were of the view that the role of the law school in post-admission legal education should be greater than this and they continued to espouse that position. This persistence persuaded the Association of American Law Schools to sponsor a roundtable discussion at its Annual Meeting in December of 1966 on "The Role of the Law School in Continuing Legal Education."¹⁰

The discussants included a former President of the American Bar Association, Ross L. Malone, a practicing lawyer member of the Joint Committee, Peter F. Coogan of Boston, the Administrators of Continuing Legal Education programs in Michigan and California, E. Donald Shapiro and Felix F. Stumpf, the Associate Dean of Harvard Law School, Professor A. James Casner, the Director of The American Law Institute, Professor Herbert Wechsler of Columbia University, and the Director of the ALI-ABA Joint Committee, Paul A. Wolkin. The discussion was chaired by Dean W. Edward Sell of the University of Pittsburgh School of Law.

A strong case was made for active law school participation. The principal reasons assigned may be summarized as follows: Only the law schools can offer high quality education because they have the most knowledgeable

⁸ ARDEN HOUSE II REPORT, 145-153 (Appendix G). The report aptly characterizes prevailing conditions:

In almost all instances, the organized state bar association is in full charge or participates to a large extent in the continuing legal education activities. . . .

Some state organizations make use of university extension divisions; others do not. Those organizations that work through extension divisions find it advantageous for a variety of reasons, including the sharing of facilities, professional experience, and finances. ARDEN HOUSE II REPORT at 145.

⁹ ARDEN HOUSE II REPORT, xxii-xxiii.

¹⁰ A transcript of the roundtable discussion appears in 13 PRAC. LAW., May, 1967, at 6 (Part I), and 13 PRAC. LAW., October 1967, at 6 (Part II).

and experienced teachers, academic independence, research facilities, and the other required educational resources. Moreover, law schools are the ultimate guardians of legal growth and law reform, consideration of which should infuse continuing legal education programs. The dissenters, Professor Casner and Mr. Stumpf, echoed the views of Dean Griswold at the first Arden House Conference.

In his concluding comments, Professor Myres S. McDougal, the then President of the Association of American Law Schools, challenged those who would deny that law schools had a role. He said:

. . . it has begun to strike me that we in the law schools are, in some measure, losing sight of our major purposes.

The principal relevance of the three years' training that we offer is in its preparation and strengthening of the legal profession for its total performance. To say that our responsibility stops, rather arbitrarily, at the end of three years is just a little absurd to me. The training for the transition from the schools to the profession, the refresher courses, and the provision of appropriate opportunities for specialization all tremendously affect the quality of the total performance of the bar and, hence, the relevance of what we achieve by our initial training.

I have been much enlightened by the discussion we have heard. We in the law schools certainly would not want to do anything to diminish the sometimes dubious quality of the instruction that we now offer in the three years of training. I find myself, however, highly sympathetic with the attitudes of Professor Shapiro, Mr. Malone, and others, when they suggest that ways should be found by which we can increase our law school contribution to our total professional responsibility.

The great need is for unified planning of the whole experience of the profession in its training for performance of its uniquely public functions. There may be ways, further, for us to contribute beyond the planning function more than we are now contributing.¹¹

Since December of 1966 other meetings and other conferences have continued to exhort the law schools and law teachers to participate in continuing legal education. A 1967 National Conference on Continuing Legal Education concluded that:

Greater interest and involvement in continuing legal education by members of law school faculties would also help to improve the quality of continuing legal education. Law schools should devote more concern and recognition to continuing legal education. Accordingly, every effort should be made by all interested organizations to encourage greater interest and involvement by law schools and their faculties.¹²

The Report of the March 1968 American Assembly on Law and the Changing Society put it this way:

¹¹ 13 PRAC. LAW., October, 1967, at 107-108.

¹² COMBINED SUMMARY OF VIEWS OF THE 1967 NATIONAL CONFERENCE ON CONTINUING LEGAL EDUCATION, MAY 20-21 (Washington, D.C. 1967), 13 PRAC. LAW., November, 1967, at 53, 56.

7. The necessary growth of continuing legal education depends upon the support of the bar, the law schools and the judiciary. Greater cooperation among participating organizations, improved efficiency, and higher quality should be the aim. Continuing legal education can contribute to instruction in the law schools, and the law schools can in turn improve the quality of continuing legal education, if the relationships between the two are extended and strengthened.¹³

The Report of the October 1968 National Conference on Continuing Legal Education again adverted to the matter:

A recurring theme at the Conference was the need to interrelate all present levels of legal education and to view the entire educational process as a continuum. This brings up again the appraising of the feasibility and desirability of greater involvement by law schools in post-admission legal education and the integration of continuing legal education and its supporting personnel into the law school structure.¹⁴

Time and conferences, however, have failed to breach significantly the law school walls. The few established law school post-admission legal education programs have continued as before.

However, activity by agencies of the organized bar has expanded substantially.¹⁵ The character of continuing legal education they offer may be characterized essentially as follows:

The average program is of one, two, or three days' duration; it deals primarily with subjects of popular appeal; it consists of work sessions of two or three hours; its faculties consist for the most part of practicing lawyers; and its pedagogy employs a combination of formats—straight lectures, panel discussions, demonstrations—augmented, in some instances, by audio-visual aids.

Usually, course materials are distributed at the time of a session, infrequently in advance, and not too infrequently afterwards. Materials may be printed, mimeographed or more commonly multilithed outlines or occasionally texts published by the sponsoring agencies; or they may be books

¹³ THE REPORT OF THE AMERICAN ASSEMBLY ON LAW AND THE CHANGING SOCIETY, MARCH, 1968, at 8 (1968).

¹⁴ GOALS FOR CLE AND MEANS FOR ATTAINING THEM, THE REPORT ON THE 1968 NATIONAL CONFERENCE ON CONTINUING LEGAL EDUCATION, 10 (The American Law Institute, 1969).

¹⁵ The 1970 REPORT OF THE DIRECTOR OF THE ALI-ABA JOINT COMMITTEE notes that that "The number of programs being offered, as reported to the CLE Catalog, continues to increase:

Academic Year	Courses Reported
1965-66	319
1966-67	348
1967-68	558
1968-69	670
1969-70	730

1970 ANNUAL REPORT OF THE AMERICAN LAW INSTITUTE, 82 (1970).

CLE Catalog lists reported continuing legal education programs and publications. It is published twice a year by the ALI-ABA Joint Committee.

of commercial publishers. Generally, advance preparation is neither required nor suggested.

The importance of such published materials as have been produced by continuing legal education must be stressed. While the output has not always been all that it should be, books of outstanding quality that surpass those of commercial publishers have come off the presses in some instances.

Audio-visual materials have been tried with varying degrees of success. The advent of cassette packaged audio-tapes has stimulated considerable interest in their use for self-instruction and the California Continuing Education of the Bar, the Practising Law Institute, and the ALL-ABA Joint Committee are producing such tapes.¹⁶

But, neither the character of the continuing legal education being offered nor its educational methods and devices have satisfied the proponents of greater involvement by law schools sufficiently to make, to their minds, such involvement unnecessary.

A law school type continuing legal education program would, they believe, take on many of the rigorous characteristics associated with law school education—advance preparation, small classes, teaching by student-teacher colloquy, research and writing, and at times examination.¹⁷ Programs at the graduate level for lawyers seeking to acquire skills for specialization are the ones most likely to have a substantial number of these features. There are not too many of them.¹⁸

This is where the legal profession's continuing education route has taken us to date. Many of us who have been concerned with continuing legal education have on occasion cast an envious eye on what seemed to be a superb program in another profession, that of continuing medical education, from which the bar hopefully might benefit. In discussing that program, to which I now turn, I must rely on "hearsay" sources as I have no personal knowledge or experience in that field whatsoever.

I am advised that all medical specialty boards give special examinations

¹⁶ Probably pioneered by the medical profession, cassettes are gaining acceptance among all the professions. See, for example, a recent brochure of the American Dental Association presenting under its auspices, *A New Visu-Cassette Program for Dentists*, produced by Health Information Systems, Inc., of New York.

¹⁷ Temple University School of Law presents an Advanced Legal Studies Program. Its announcement for the 1970 Fall Semester lists courses on Corporate Taxation, Pennsylvania Workmen's Compensation Law and Practice, Taxation of Employment Compensation, Trial Techniques—Civil Cases, Fiduciary Management, Drugs and Cosmetics—Products Liability, and Mass Communications Media. Each course involves two hours of instruction a week from September 8 through December 20. An accompanying letter from the Chairman of the program notes that it embraces "new concepts, in the organization of courses on a sequenced basis, and in the granting of Dean's Certificates evidencing the attainment of competence in areas of specialization." George Washington University also has a graduate program in selected subjects for government employees and others.

¹⁸ Taxation is a popular subject. Special studies for specialization in this subject were pioneered at New York University School of Law Graduate Program. ARDEN HOUSE I REPORT, *supra* note 1. Boston University Law School also has a substantial graduate level tax program leading to a Master of Laws in Taxation degree.

after five or more years of internship, residency and practice that consist of intensive written examinations which, if passed, are usually followed by oral examinations six months later. Thus, in the specialties, the doctor is forced to educate himself for several years after graduation from medical school. But there is no comparable requirement for the general practitioner.

A list of "Continuing Education Courses for Physicians" for the period from September 1, 1970, through August 31, 1971, is accompanied by an analysis of such programs for that year and the preceding nine years. The analysis indicates that during those years, of the courses reported, medical schools offered 35-60% of the courses, hospitals 9-22% and others the rest.¹⁹ This analysis is by "primary sponsors." Cosponsors are almost as many, indicating a dilution of academic sponsorship. An editorial accompanying a similar list of courses for the preceding year noted:

1. There is a steady growth of medical education at the community-hospital level. This brings the educational opportunities to the doctor where it is part of his daily practice. Programming of this character is increasing. Nevertheless, the point is made that "it remains for continuing medical education at community hospitals to be given a more definite recognizable form, a system of physician education which can be nourished with the latest knowledge and skill from the medical school and medical specialty society system."²⁰

2. Referring to the role of the state medical association in continuing medical education, the editorial reports the view prevalent in state medical societies that they have a "strong and clear role to play."²¹

Both of these would seem to militate against a dominant role for the university or medical school in continuing medical education. A statement of "Objectives and Principles of Continuing Medical Education Pro-

¹⁹ 213 J.A.M.A. 765, 767 (August 3, 1970). A table from which the reported figures are taken shows year by year percentages as follows:

*Continuing Medical Education Courses Listed,
1961-1962 to 1970-1971*

Year	Total Courses Reported	No. of Primary Sponsors	Courses Offered by	
			Medical Schools	Hospitals
1961-62	1,105	206
1962-63	1,146	208	626-55%	104- 9%
1963-64	1,264*	267*	760*-60%	163-13%
1964-65	1,569	251	857-55%	265-16%
1965-66	1,641	252	863-53%	351-21%
1966-67	1,608	262	910-57%	338-21%
1967-68	1,830	263	1,000-54%	224-12%
1968-69	1,922	300	1,024-53%	370-19%
1969-70	2,016	323	886-44%	441-22%
1970-71	2,319	303	813-35%	374-16%

* Includes courses offered by 5 Canadian schools not reported in other years.

²⁰ 209 J.A.M.A. 766 (August 4, 1969).

²¹ *Id.* at 767.

grams,"²² prepared by the Council on Medical Education of the American Medical Association, offers some clarification of the first point. The introduction (page 1) states:

The educational implications of reading the medical literature, consulting with colleagues, and attending medical society meetings are significant, but they are under the direct control of the individual physician. The enormous and increasing bulk of medical literature on even relatively restricted subjects makes difficult the maintaining of a current knowledge by this means alone. The routine medical society meetings are often of necessity not primarily educational.

Postgraduate programs by hospitals, medical schools, and medical societies, on the other hand, involve groups of people and educational techniques having close analogies with undergraduate and graduate medical education. All three phases of medical education may involve the same educators. It is with such programs—formal courses and regional hospital-medical school cooperative educational efforts—that the Council on Medical Education hopes to be of assistance.

A quite critical view may be obtained from *The Doctors*,²³ published not too long ago. Perhaps I should refrain from mentioning this book for the same reasons that I have cited no book about lawyers. Perhaps doctors would consider it too unreliable and sensational to be referred to here. Nevertheless, without vouching for its accuracy, it may be appropriate to refer to it for whatever it may be worth, since it reports serious criticism of continuing medical education from within the profession. The author puts it bluntly: ". . . the continuing education of the American doctor has been a failure." He gives the following reasons.

Continuing medical education offers courses that are "packaged-seminars," of but one or three days in length rather than traditional continued instruction on a weekly basis; it is spasmodic and sporadic rather than sequential and purports to make available instant medical knowledge. Some of the education borders on the frivolous because of the environment, the medical convention, in which it takes place. A report sponsored by the American Medical Association stated it succinctly when it warned that "conferences and cocktails are not substitutes for a good curriculum." Qualitatively, courses have been criticized as lacking sophistication, and being impractical, disjointed, and too elementary or too esoteric. Curriculum has been criticized as being aimless and lacking cohesion and direction. Part of the failure is attributed to a "Town and Gown" syndrome reflecting "a pathological antagonism between the medical school and the practitioner." The practitioner is frequently cut off from the scholarly as-

²² As revised in 1969, Chicago. At its meeting in June of 1970, the House of Delegates of the American Medical Association formally adopted the Council's statement of Objectives and Principles which has now been republished under the title "Essentials of Approved Programs in Continuing Medical Education."

²³ M. L. GROSS, *THE DOCTORS* (1966), 143-148. For another critical view, see M. CRICHTON, *The Miseducation of Doctors*, *The New York Times*, October 16, 1970.

pects of medicine and the teacher exhibits a similar insularity for his own reasons. One physician is quoted as saying that " 'Unlike education at the medical school level, there is no central authority with the responsibility to stimulate, develop and coordinate the tremendous effort necessary to assure success, and to evaluate the results.' " Another is quoted as saying that "[c]ontinuing education's current lack of 'a long-range, organized, sequential plan of participative learning,' is the result of the absence of a 'modern curriculum'."

The only hope for the future, the author reports, is founded on a greater role being assumed by the medical schools. In the words of one of the medical authorities quoted, no solution of the problem is feasible except in terms that "[e]ach physician must remain always a member of the medical college. . . . Closed-circuit television, travelling teams of medical school instructors, even publications, do not keep the practicing physician young in his learning. I want the practicing physician to remain an integral part of the chosen source of his profession . . . at once a member of the college's faculty and of its student body.'" With this there is a suggestion that the medical profession require for continued certification a specified number of hours devoted to continuing education each year.

If the results of the survey reported by the author are valid, continuing education in medicine will be successful only to the degree that it becomes closely identified with and a part of university medical school education. This comes out to about the same position that many concerned with continuing legal education have advocated.

Essentials of the pattern of continuing education in law and medicine prevail in other professions. Thus, professional associations, national and local, are the prime moving forces in the organization, sponsorship, and conduct of programs in veterinary medicine,²⁴ accounting,²⁵ and architecture,²⁶ the role of the university being secondary or nonexistent.

²⁴ Report submitted for review by The American Veterinary Medical Association's House of Delegates in June, 1970. The report quotes Professor Cyril O. Houle of the University of Chicago to the effect that " ' . . . the *professional association* crowns all other efforts at continuing education and bears the chief collective responsibility for it.' " *Id.* at 16. The report suggests "State Directors of Continuing Education." *Id.* at 18. See also February 1, 1970 issue of the Continuing Education News published by the American Veterinary Medical Association.

²⁵ American Institute of Certified Public Accountants' catalog of 1970 *Professional Development—Courses, Seminars, Lecture Programs, Training Programs, Individual Study Programs*. "If the growth of this program continues to be impressive, credit must be given in large measure to state societies and local organizations of CPAs throughout the country. For although the American Institute assumes principal responsibility for technical preparation and revision of professional development materials and overall administration, the program can be successfully implemented only with the active cooperation of state societies." *Id.* at 1. See also 1969-70 *Annual Catalog, Continuing Education Program of National Association of Accountants*.

²⁶ Memorandum (March 31, 1970) to All State Organization Presidents, All AIA Chapter Presidents from AIA Joint Committee on Continuing Education Re State Organization/Chapter Participation in the AIA Professional Development Program. "The AIA Professional Development Program (PDP) is providing continuing professional education opportunities to members of the profession in the form of one and two day seminars developed under the guidance of the

A novel view was proposed some years ago in an engineers' report. It placed the primary continuing education burden on the employer but went on to caution that "[c]olleges and universities as well as the professional and technical engineering societies must assume a much greater role in meeting the problem of technical obsolescence."²⁷

In dentistry, it appears that much if not most of its continuing education is based in educational institutions²⁸ but its episodic and short-term character suggests a kinship with the programs in law and medicine.²⁹

On the other hand, social workers,³⁰ church workers,³¹ nurses,³² and probably pharmacologists,³³ are substantially, if not completely, dependent on the university or their professional schools for continuing their professional education.

What may we glean from this brief survey of continuing education in the professions?

First. Responsibility for the continuing education of a profession is in varying degrees shared by its professional associations and its professional educational institutions.

Second. However, the more a professional association is a dominant force in a profession, the greater the likelihood that it will play a dominant

Joint Committee on Continuing Education. Many chapters have written to ask about the details for participating as a host chapter. The purpose of this memorandum is to explain how this can be accomplished and under what conditions."

²⁷ PEI Survey Report, *Continuing Education of Professional Engineers*, at 5, conducted by Professional Engineers in Industry of the National Society of Professional Engineers (March, 1966). "Based on the results of this survey, it is the belief of the Professional Engineers in Industry Committee on Continuing Education, that the principal burden lies with the employer. It is the employer who can make time available to his engineering employees to pursue continuing education programs. It is the employer who can organize and conduct continuing education programs where none are available in the community. It is the employer who can supplement programs offered and conducted by local colleges or universities. It is the employer who can help defray the engineering employee's expenses in pursuing continuing education programs. And it is the employer who, through pay increases, promotions, transfers or increased responsibilities, can help motivate engineering employees to participate in continuing education programs." The report shows that 35% of engineers responding to a questionnaire had completed in a five-year period continuing education programs organized and conducted by colleges or universities, a much higher percentage than would be true of lawyers. The percentage for company organized and conducted programs was 36%, and those of professional societies 14%. *Id.* at 17-19.

²⁸ Continuing Education, *Course Listings for October, 1970 through January, 1971*, 81 J. AM. DENTAL ASSOC. 701 (September, 1970); 36 J. AM. COLLEGE OF DENTISTS 149 (July, 1969).

²⁹ Barker, *Administration and Evaluation of Continuing Education Programs*, 36 J. AM. COLLEGE OF DENTISTS 171 (July, 1969); Darby, *The Dentist and Continuing Education—Attitudes and Motivations*, 30 J. AM. COLLEGE OF DENTISTS 165 (July, 1969).

³⁰ A superb report on continuing education in this profession is D. Miller, *Continuing Education Programs of Schools of Social Work: Report of a Survey* February, 1969 (published by the Council on Social Work Education, New York). The Council publishes *Exchange*, a newsletter on continuing education in social work.

³¹ *Study Opportunities for Professional Church Workers*, 1970, (published by Council Press for the Department of Ministry, National Council of Churches, New York).

³² Barritt and Ohliger, *Continuing Education*, 69 AM. J. NURSING 2170 (October, 1969). Lack of financing, however, is causing a decline in the number of programs.

³³ See Bulletins of The Philadelphia College of Pharmacy and Science.

role in the continuing education of the profession. This tends to dilute the role of the universities and their professional schools.

Third. Nevertheless, a professional association's continued critical evaluation of its continuing education programs and policies points invariably to the need for greater involvement and participation by the educational institutions of that profession.

Fourth. Leadership in bringing about such involvement most often comes from the professional associations, seldom from academic institutions.

So much for past history. Let us now consider the future. I know no one who would say that all continuing professional education should repose in the universities. I certainly would not. There should be no monopoly in any organization or group. There is an appropriate continuing education function and responsibility for all segments of a profession. The following significant functions of continuing legal education are illustrative:

It should train recent law graduates in the skills of practice. (The "bridge-the-gap" function.)³⁴

It should afford an opportunity to keep current. (The "keeping-up" function.)

It should afford an opportunity to upgrade professional skills. (The "freshening" function.)

It should afford an opportunity for education for professional advancement, as desired. (The "new skills" function.)

It should offer opportunities for retraining in lost skills, where needed. (The "refresher" function.)

It should offer opportunities for a broadening of the professional base—to learn about societal developments, other disciplines, and professional and public responsibilities. (The "public responsibility" function.)

Finally, it should offer an opportunity for training for specialization. (The "specialization" function.)

Continuing education under the aegis of a professional association or other organization can perform some of these functions well, including particularly the "keeping-up" and "public responsibility" functions in subjects where the base of professional interest is fairly broad. Periodical literature, books and other publications of professional organizations, and more recently cassette packaged audio-tapes, are superb media for keeping-up through self-study. Practitioners, especially those involved in bringing about new developments in a profession, are logical candidates for writing up those developments and teaching them to their fellow practitioners on a short-term basis.

³⁴ See ALI-ABA Joint Committee on Continuing Legal Education, *Meeting the Educational Needs of the Newly Admitted Lawyer—A Proposal for General Practice Courses* (The American Law Institute, 1968).

The discharge of most of the other continuing education functions, however, is more demanding in terms of time required, analysis involved, program structuring, preparation of written materials, and teaching. In these, greater participation by the professional educator, the academician, is needed. Moreover, the active academic entity involved should be the professional school rather than any other division of the university.

We should thus have a continuing education system wherein the professional association working through its members and the professional school working through its teachers are both essential components. From this perspective and cognizant of the varied functions to be fulfilled, what then should the future role of the university working through its professional school be in professional continuing education?

It has been suggested that, if the continuing education function of the professional school is fully assumed, it will be of a dimension substantially greater than its function of educating for the profession. This is because the student body and curriculum in the latter instance are finite and circumscribed by the limited number of years of study required for a professional degree, whereas the only limit to continuing education's student body will be the number of members in a profession. Moreover, the curriculum will be confined only by the limits of the profession's knowledge and it will probe beyond such limits to develop new categories of professional service, with its duration measured by the practitioner's life span. If these almost limitless boundaries are accepted, the commitment by professional schools to continuing education might well result in its becoming the major educational function of the professional school.³⁵

Such a commitment would not presume, however, that each professional school must offer a broad spectrum continuing education curriculum. To achieve maximum utilization of limited resources, each professional school would determine the particular continuing education functions it should assume in the light of its special competence and the needs of its potential student body of practitioners, and would limit its role accordingly.³⁶ For example, in an urban center having a number of universities, each of the schools in a given profession might assume responsibility for education in a different specialty.

Moreover, each school could tailor its units and periods of instruction to accommodate the subjects it teaches and the professional community it serves. Regular semesters might prevail where the program involves several hours of instruction a week.³⁷ A residential program might entail

³⁵ Cf. I. F. REICHERT, JR., *THE FUTURE OF CONTINUING LEGAL EDUCATION: LAW IN A CHANGING AMERICA* 182 (1968): "It is not incautious to predict that post-admission legal education, rather than initial law school training, will achieve a place of predominant importance in the life of the profession."

³⁶ Cf. A. Z. REED, *TRAINING FOR THE PUBLIC PROFESSION OF THE LAW* 416-420 (1921) This study of the legal profession was financed by the Carnegie Foundation.

³⁷ *Supra* note 17.

several weeks of intensive study. There would be room for much interesting experimentation.

The university embarked on continuing education for the professions would provide physical plant for this purpose—classrooms, library, and where appropriate, dormitory and dining facilities for in-residence programs, the theory being that motivating students to adhere to the highest academic standards in pursuing continuing education would be facilitated by conducting that education in an appropriate academic environment. Of course, a stable academic community is presumed, an assumption which if untenable would render our discussion academic.

However, it is recognized that the university continuing education program cannot and should not be limited to a campus setting. It must employ means to make its program available to all the practitioners in its area. This may require an itinerant faculty or use of facilities that today's technology has made possible—television and radio, audio-visual materials.

Hopefully, appropriate provision would be made for opportunities to participate in relevant research, since this can serve the same educational function in post-admission education that it serves in professional schools at present. On the one hand, practitioners may tend too often in their practice to use obsolescent research techniques; on the other, practitioners, given reasonable research opportunities in the university setting, might bring to them new and practical insights of significance.³⁸

An essential element of any continuing education program in professional schools should be education for public and professional responsibility.³⁹ The university is particularly suited to do this. Its success would become a signal contribution to society.

It is apparent that, to participate in continuing professional education as fully as above suggested, the professional school will need to be expanded. I do not here refer to mere physical plant. Such financial assistance as is mustered to start a continuing education program should be devoted initially, and perhaps for a time to come, to faculty recruitment, development of materials and curriculum, and research. Existing personnel, we have been told with some force, are subject to too many demands to be burdened with responsibility for continuing education. It is to be hoped, however, that some of them can be recruited for continuing education or at the very least that they will assist in recruiting and training faculty to meet the high standards of the academic institutions they will serve. However, it is clear that some who will be teaching in continuing education will necessarily have to be a different breed of teacher because of the different needs they will be required to meet, and investment will

³⁸ See Wolkin, *From Arden House, 1958, to Boulder, 1968*, 41 U. COLORADO L. REV. 328, 334 (1969).

³⁹ See ARDEN HOUSE I REPORT, 18-39; Wolkin, *supra* note 38.

be required for special teacher training programs. Similarly, the teaching materials will be of a different nature and their development will require a substantial financial input.

The ultimate full participation by professional schools in continuing professional education along the lines envisaged by its supporters has much to be said for it and it may be the wave of the future, especially if, as mentioned later, continuing professional education is subjected to an accreditation process or if an element of compulsion is imposed on professional practitioners to continue their education. But granting that this is desirable, it seems probable that progress can only be made slowly. The main difficulty of expecting too much too soon lies not only in the current preoccupation of universities with pressing problems in other areas but also in the financial problem and in the problem of motivation of professional practitioners to make full use of opportunities made available to them. Thus far, despite the greatly increased interest in continuing professional education that has developed during recent times, a vast number of practicing lawyers most in need of continuing legal education still fail to seek it, and I suspect this may be true also of other professions. Some, who learn better through their eyes than their ears, may feel they can accomplish what they need by self-study; but others simply lack the motivation—the compelling need to become better equipped if they think they can get along without it—especially if it costs money and interrupts their practice. But this attitude should change as continuing professional education programs become better and more attractive and as practitioners increasingly come to recognize they are well worth the cost in time and money.

In the legal profession, motivation of practitioners may well be further stimulated by the recent adoption by the American Bar Association and an increasing number of states of a new Code of Professional Responsibility (or rules of ethical conduct), which expressly codifies the rule that "A Lawyer Should Represent A Client Competently" and which emphasizes the importance of continuing legal education. Motivation would be stimulated even more by adoption of a policed requirement that a professional practitioner must continue his professional education as a condition to continuing his license to practice.⁴⁰ However, adoption of the latter measure is likely to be dependent on appropriate action by the organized societies representing the profession, which in turn depends upon the support of the profession or at least its leaders.

I have little doubt that if the universities were willing to undertake to

⁴⁰ See Dalton, *What Is the Position of the American Association of Dental Examiners on Continuing Education as a Requirement for Re-Licensure*, 36 J. AM. COLLEGE OF DENTISTS 186 (July, 1969); McCallum, Jr., *What Is the Attitude of the American Association of Dental Schools on Continuing Education as a Requirement for Re-Licensure*, 36 J. AM. COLLEGE OF DENTISTS 188 (July, 1969); Gossett, *The Future of Continuing Legal Education*, 55 A.B.A.J. 132, 133 (1969); Segal, *The Goals of CLE as Viewed by the Organized Bar*, 13 PRAC. LAW., October, 1969, at 13.

provide the benefits of the full scale continuing professional education that has been suggested for them, the question of financial support would not in the long run be an obstacle. While financing of continuing professional education programs has been a problem in the past and may for a time continue to be, those schools in the legal profession that have entered this field have apparently had no trouble in getting lawyer students and indeed no continuing education program of any dimension in the legal profession has yet had to be terminated because of a lack of funds. As professional practitioners increasingly recognize the importance of continuing their professional education and are willing to pay substantial charges for it, as many do today, it seems reasonable to believe that the financial problem can be overcome.⁴¹

But whatever may be said about the proposed full scale university participation in continuing professional education, the essential need at this time, in my judgment, in each profession, is by one means or another to promote increased participation and cooperation between the practicing members of the profession and its professional schools in the planning, organization and conduct of continuing education programs. This might be done, at least partially, through the organized societies of the profession in order to provide coordination and to avoid duplication of effort and unnecessary rivalry. Practitioners could offer important guidance in determining the educational needs of the profession that might be met through the professional school. In appropriate instances the practitioner's expertise should be availed of in teaching and in developing classroom materials. Academics in turn could offer guidance in the conduct of continuing education programs conducted by professional societies.

Close association and coordination with the professional association are desirable for yet another purpose. Professional continuing education, to attain the status and quality of professional education desired, may eventually need to submit to an accreditation process.⁴² This will mean developing and applying standards for accreditation. It may be necessary also to accord some form of recognition to those who submit to a serious academic regimen to improve their proficiency.

In concluding may I express my deep appreciation for your attention. I suspect some of you, after listening to what I have said, would wish—in words recently used in another connection by Dean Charles Galvin—that “the whole dismal enterprise might disappear into a dank, miasmatic, myxomycetous sump.” To them I would suggest that the stubborn questions of responsibility involved simply will not disappear.

The universities have a responsibility to society to fulfill their function

⁴¹ Cf. Manning, *Financial Anemia in Legal Education: Everybody's Business*, 55 A.B.A.J. 1123 (1969).

⁴² Perhaps existing accreditation of professional schools will include their continuing education programs.

to educate. They have educated the professional and historically have played at least some part in his continuing professional education. At the very least, I submit, they should participate more fully than in the past in continuing professional education in order to enrich and enlarge the offerings available to the professions and to provide more adequate and complete and better disciplined continuing professional education programs. This is especially needed in my profession during times when the law is undergoing change and new fields of practice are being developed. This in varying degrees is true of all professions today.

Our times suggest that the professions may not be meeting fully their responsibilities to society and that this failure may be attributable in part to educational inadequacies and obsolescence. If that be the case, is it not as much the duty of the universities as it is of professional practitioners and their organizations to do what they can to remedy the deficiency? Together, the universities and the professions should rise to this challenge.